Supreme Court, U.S.
FILED

No. 05-458 JUN 21 2005

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

WILLIAM MONTGOMERY

Petitioner,

VS.

MARIE MACAJOUX, Office of the Chief Medical Examiner, et al.

Respondent(s).

ON PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF NEW YORK

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1) WAS THE SECOND CIRCUIT COURT OF APPEALS DECISION AFFIRMING DISMISSAL OF PETITIONER'S COMPLAINT CONTRARY TO THE SUPREME COURT'S HOLDING IN CRESCENT CITY LIVE-STOCK LANDING & SLAUGHTER-HOUSE CO. V. BUTCHERS UNION SLAUGHTER-HOUSE & LIVE-STOCK LANDING CO., 120 U.S. 141 (1887)?

2) WAS IT ERROR FOR THE DISTRICT COURT AND THE SECOND CIRCUIT COURT OF APPEALS IN AFFIRMING DISMISSAL OF PETITIONER'S COMPLAINT UNDER THE SCREENING PROVISIONS CONTAINED WITHIN 28 U.S.C. 1915A TO DETERMINE AS A MATTER OF LAW THAT PETITIONER'S COMPLAINT WAS DIRECTED AT "GOVERNMENT OFFICIALS OR ENTITIES" CONTRARY TO THE SUPREME COURT'S HOLDING IN *MONELL V. DEPARTMENT OF SOCIAL SERVICES OF THE CITY OF NEW YORK*, et al. ?

3) DID THE LOWER COURT'S ERR IN DETERMINING THAT PETITIONER'S CLAIMS WERE TIME-BARRED UNDER THE STATUE OF LIMITATIONS FOR MALICIOUS PROSECUTION INSTEAD OF UNDER THE LIMITATIONS PERIOD COVERING FRAUD CLAIMS?

PARTIES TO THE PROCEEDINS

ALL PARTIES DO NOT APPEAR IN THE CAPTION OF THE CASE ON THE COVER PAGE. A LIST OF ALL PARTIES TO THE PROCEEDING IN THE COURT WHOSE JUDGMENT IS THE SUBJECT OF THIS PETITION IS A FOLLOWS:

MARIE MACAJOUX, OFFICE OF THE CHIEF MEDICAL EXAMINER
NEW YORK CITY KINGS COUNTY HOSPITAL
DR. PEPI DAKOU
DR. TUDOR
DR. JOHNSON
DR. THOMAS SCALEA
DR. SHIH
DR. ADLER
DR. KLIEN
DR. ELLOWITZ
DR. KOTZEN
DR. KELLY
DR. CHIN
DR. SHELBY
DR. SAMUAL
DR. KRAUS
DR. VERTIL
DR. McRAE
DR. HAHN, INVESTIGATOR

DEFENDANTS.

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POINT 1: THE UNITED STATES SECOND CIRCUIT COURT'S SUMMARY ORDER AFFIRMING THE DISTRICT COURT'S DISMISSAL OF PETITIONER'S COMPLAINT IS CONTRARY TO AND IN CONFLICT WITH THE UNITED STATES SUPREME COURT'S HOLDING IN CRESCENT CITY LIVE-STOCK LANDING & SLAUGHTER-HOUSE CO. V. BUTCHERS' UNION SLAUGHTER-HOUSE & LIVE-STOCK LANDING CO. AND IS NOT FORECLOSED BY HECK V. HUMPHREY.

POINT 2: THE DISTRICT COURT AND THE SECOND CIRCUIT COURT OF APPEALS IN AFFIRMING PETITIONER'S COMPLAINT ERRED WHEN IT DETERMINED THAT THE DEFENDANTS WERE GOVERNMENT OFFICIALS OR ENTITIES ALLOWING INITIAL SCREENING OF THE COMPLAINT UNDER 28 U.S.C. 1915A AND CONTRARY TO THE SUPREME COURT'S HOLDING IN MONELL V. DEPARTMENT

OF SOCIAL SERVICES OF THE CITY OF NEW YORK et al. 436 U.S. 658.

POINT 3: THE THREE YEAR STATUE OF LIMITATIONS PERIOD FOR MALICIOUS PROSECUTION WAS INAPPLICABLE TO PETITIONER'S COMPLAINT AS HE WAS ALLEGING FRAUD IN HIS COMPLAINT THUS THE DETERMINATION THAT HE WAS TIME-BARRED WAS ERROR.
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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Second Circuit appears in Appendix A to the petition and is unpublished.

The opinion of the United States District Court, Eastern District of New York is found in Appendix A to the petition and is unpublished.

JURISDICTION

The date on which the United States Court of Appeals for the Second Circuit decided my case was March 28, 2005. The jurisdiction of this court is involved under 28 U.S.C. 1254 (1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONSTITUTION
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SIXTH AMENDMENT
FOURTEENTH AMENDMENT

FEDERAL STATUTES
28 U.S.C. § 1331
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